

JUSTIFICATION FOR SPECIAL TEMPORARY AUTHORITY

Empire Broadcasting Corporation, licensee of Station KLIV, San Jose, California ("Empire"), seeks Special Temporary Authority ("STA"), pursuant to Section 73.1635 of the Commission's Rules, to operate Station KLIV at variance from its licensed specifications. In support of its request, Empire provides (i) the attached Engineering Statement of Cynthia M. Jacobson, P.E. of the Consulting Engineering firm of Carl T. Jones Corporation (the "Jacobson Statement"), and (ii) a Statement Under Penalty of Perjury of Jaime Arbona (the "Arbona Statement"), a representative of Pham Radio Communications, LLC. ("PRCL"), which has agreed to purchase from Empire the broadcast license and associated assets of Station KLIV and to file for a construction permit to relocate the transmitter of the Station.

Station KLIV has been silent pursuant to Commission consent since January 28, 2019 (File Nos. BLSTA-20190204AAB and 20190827ABR) because the land on which the towers sat was sold. Since going dark, Empire has tried to donate the Station to San Jose State University or to the City of San Jose in an effort "to stimulate more participation in government."

<https://www.mercurynews.com/2019/01/26/san-joses-kliv-going-silent-after-73-years-for-now/>.

(Robert S. Kieve, the 97-year old President of Empire and a former speechwriter from President Eisenhower, believes strongly that local media are integral to strong government.)

Unfortunately, despite Mr. Kieve's valiant attempts to structure a donation of the Station, those efforts failed. (Additional documentation of Mr. Kieve's efforts in this regard are available upon the Commission's request.)

Rather than risk elimination of this important radio outlet by operation of law (47 USC §312(g)), Empire has agreed to return the Station to the air under the technical specifications set out in the Jacobson Statement and to sell the Station to PRCL, an established licensee of the Commission that already serves the growing Vietnamese community of San Jose within Santa Clara county. See

<http://www.usa.com/rank/california-state--vietnamese-population-percentage--county-rank.htm?hl=Santa+Clara&hlst=CA&yr=9000>

and

<http://www.usa.com/rank/california-state--vietnamese-population-percentage--county-rank.htm?yr=6000&dis=&wist=&plow=&phigh=>

establishing that Santa Clara county ranks first among California counties in percentage of Vietnamese population.

The Jacobson Statement makes clear that the requested STA fully complies with the Commission's Rules for Special Temporary Authority. The proposed operation

- (i) meets the criteria of Section 1.306 of the Rules;
- (ii) is excluded from environmental processing;
- (iii) does not involve a site location under Section 1.1307(a) (1)-(7) of the Rules; and
- (iv) complies with RF radiation guidelines.

In Ms. Jacobson's words (Jacobson Statement, p. 3):

"...the proposed temporary antenna system's 0.5 mV/m groundwave contour will be wholly within the KLIV licensed 0.5 mV/m groundwave contour; therefore, KLIV fully complies with the Commission's Engineering Rules for Special Temporary Authority." (emphasis added)

The Arbona Statement similarly makes clear that that the long-term viability of KLIV will be cared for by an established broadcaster that has agreed to bring KLIV to full power from a new transmitter site soon after consummation of the assignment of KLIV's license (pursuant to Commission consent) to PRCL (Arbona Statement, pars. 2 & 3):

"We intend to enter into a binding agreement with Empire shortly, file an application with the FCC for consent to assignment of KLIV's license immediately after execution of contract, and close as quickly as we can thereafter.

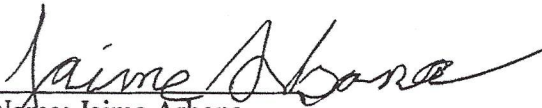
We also will be filing an application to permanently relocate the technical facilities of KLIV upon consummation of the sale."

Empire respectfully submits that permitting Station KLIV to operate with reduced power for a limited period of time to enable its assignment to a licensee that has agreed to restore the Station to full power in service of the citizens of San Jose surely serves the public interest. Indeed, the alternative is to remove the Station from the air and eliminate a much-needed

community outlet for news, information, and entertainment to the Vietnamese community of San Jose and its environs. Empire is prepared to return Station KLIV to the air within a few days of receipt of FCC approval to do so.

DECLARATION UNDER PENALTY OF PERJURY

1. My name is Jaime Arbona and I am the representative of Pham Radio Communication LLC, licensee of Station KVVN, Santa Clara, California.
2. This will confirm that Pham Radio Communication LLC has an agreement in principle, arrived at on January 7th, 2020, with Empire Broadcasting Corporation, to acquire the broadcast assets of Station KLIV, San Jose, California. We intend to enter into a binding agreement with Empire shortly, file an application with the FCC for consent to assignment of KLIV's license immediately after execution of contract, and close as quickly as we can thereafter.
3. We also will be filing an application to permanently relocate the technical facilities of KLIV upon consummation of the sale.
4. I declare under penalty of perjury that the foregoing is true and correct.


Name: Jaime Arbona

Title: President, In-Language Radio

Date: January 7, 2020